THE COUNSELOR
DEPARTMENT OF STATE
WASHINGTON

19-0660 Act
CONFIDENTIAL
6263

January 29, 1979

1948

MEMORANDUM TO: M - Mr. Read
CA - Ms. Watson
S/P - Mr. Lake
H - Mr. Bennet
L - Mr. Marks
ARA - Amb. Vaky
M/CT - Amb. Quainton

FROM: Matt Nimetz

SUBJECT: Jonestown Follow-up

DEPARTMENT OF STATE A/CDC/MR
REVIEWED BY
DATE
DELETION(S)

Attached is a draft cable we discussed some weeks ago. It would request posts to report on groups of Americans of the Jonestown type but makes clear the constitutional and legislative limitations involved. I would like comments by the close of business Thursday, February 1.

Attachment:

Draft Cable.

cc: C - Amb. Crimmins
C - Mr. Carpenter
L - Mr. Hansell
H - Mr. Atwood
M - Mr. Murray
M - Dr. Pieczenik
M/MO - Mr. Jones
PA - Mr. Carter
D - Ms. Barnes
L - Mr. Michel
CA - Mr. Horan
CA - Mr. Gise
ARA - Mr. Grove
ARA - Mr. Bushnell
ARA/CAR - Mr. McCoy
S/P - Mr. Hume
A/BF - Mr. Feldman
A/SY - Mr. Ackerman

DEPARTMENT OF STATE A/CDC/MR
DATE 5/2/85
PA or FOI EXCISIONS

CONFIDENTIAL

GDS, 1/29/85

Introduction

1. The Department has undertaken an analysis of the Jonestown tragedy in an effort to understand its implications for the provision of consular services to Americans abroad and the wider impact that individual groups of Americans or foreign nationals may have on the conduct of foreign policy, particularly with regard to host country relations. This is a difficult area in which to navigate since it combines important considerations of both international and domestic policy as well as having a serious potential for complicating relations with host governments.

2. Nonetheless, our review has convinced us that the Department needs to be particularly sensitive to those situations -- admittedly infrequent and usually unique in nature -- where the presence overseas of a discrete and often self-contained group of persons may adversely affect the conduct of relations with the host government, the interests of the USG, or the welfare of American citizens both abroad and at home. This message discusses the legal and constitutional considerations that posts should bear in mind when reporting on situations of this type in the future, and sets out the sort of information that the Department would find most useful in determining

GDS, 1/29/85 (Nimetz, Matthew)

whether further action should be taken. Inevitably, each post will have to exercise its own discretion in determing whether local conditions warrant this type of reporting and the bounds to which such post activity should be limited. With the thought that general observations from the Department may be helpful to posts in defining their responsibilities in this area, an overview of the legal and policy restrictions on overseas reporting is set out below. It should be emphasized that the Department does not contemplate the imposition of a new reporting requirement on posts, but does desire to obtain a more complete picture of possible sources of instability or concern about the welfare of American citizens arising from private groups resident abroad.

3. Our analysis of the Jonestown incident reconfirms the general impression that consular officers are often the first to become aware of difficult situations that may escalate into tragic proportions bearing directly upon our political, economic or law enforcement interests. Most posts already maintain a good working relationship between their consular sections and other elements of the post infrastructure. These arrangements can be strengthened so

that the members of the country team can be fully aware of significant or unusual developments in the consular sphere, and that consular officers can be kept adequately informed of political and economic developments that may relate to the provision of special consular services.

Legal and Policy Considerations

4. Both general reporting responsibilities and the provision of consular services must, of course, be strictly compatible with the individual freedoms guaranteed to all Americans by the Consitution. As officials of the U.S. Government we not only have the responsibility to see that our actions do not impinge upon the free exercise of these rights, we must also endeavor to fulfill the positive obligations of ensuring, whenever possible, the fullest expression of First Amendment freedoms of speech, association, and the practice of religious belief.

5. The Constitution recognized that minority groups -- including those that hold divergent or unpopular views -- merit special protection. While the Department needs to be informed about the existence of groups of Americans overseas when their presence or activities may have potential foreign policy ramifications, we must be sensitive to the fact that every American, in the most fundamental sense, has a basic

right to be left alone. In certain circumstances, the very act of gathering and reporting information may have a chilling effect upon the exercise of Constitutional liberties. Whenever the reporting interests of the Department can reasonably be deemed to conflict with the First Amendment, then the First Amendment must of course prevail.

6. There can be no reporting or record-keeping by the Department with respect to an individual's exercise of his Constitutional freedoms. The Privacy Act makes this injunction explicit when it provides that government agencies shall quote maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity unquote. Neither are we to engage in surveillance activities directed against individual Americans unless pursuant to a specific criminal investigation, as necessary for the protection of the President, or with the individual's knowledge and consent.

7. It is clear, however, as the Jonestown experience makes evident, that under certain circumstances groups of Americans

resident overseas or foreign organizations with a significant percentage of American members, may have an impact on foreign policy concerns or through their activities affect the welfare of American citizens in a manner that would be of legitimate concern to the USG. The Department would appreciate receiving timely information about the nature and activities of such groups. It would normally not be required to identify specific individuals. Reporting should, of course, be confined to actions that are not protected by the First Amendment.

Reporting Standards

8. Most Americans who live or travel abroad engage in activities that are either of no interest to the Department or are completely innocuous in nature. Most businessmen, students, tourists, retirees, missionaries or other religious observants fit into this category. From time to time, however, a post may learn of the formation or existence of an organization, composed principally or exclusively of American citizens, which contains the potential for adversely affecting relations with the host government or triggering adverse foreign policy consequences or violations of U.S. law, for example, in areas relating to international terrorism, the welfare, safety and whereabouts of American citizens,

international narcotics trade, the control of munitions, or contact with foreign intelligence operatives.

9. The Department would be interested in receiving reports on the activities of such groups. Reports should be made without infringing the Constitutional or legal guarantees afforded to groups of Americans overseas, and should be otherwise compatible with the post's mission. Objective reporting of events or concrete actions as well as descriptive statements of organization policy and plans is permissible, so long as posts refrain from characterications of protected beliefs or dogmas.